



RECORDS RETENTION SCHEDULE

Office of the Commonwealth's Attorney
Schedule Date: September, 1989

Prepared by
RECORDS MANAGEMENT BRANCH
Public Records Division
Kentucky Department for Libraries and Archives

RECORDS RETENTION SCHEDULE

Signature Page

<u>Office of the Attorney General</u>	<u>December 1977</u>
Agency	Schedule Date
<u>Office of the Commonwealth's Attorney</u>	<u>September 1989</u>
Unit	Change Date

Date Approved by Commission

APPROVALS

The undersigned approve of the following Records Retention Schedule or Change:

<u>Fred J. Cavan</u>	<u>9-8-89</u>
Agency Head	Date of Approval
<u>John B. Ellis</u>	<u>September 9, 1989</u>
Agency Records Officer	Date of Approval
<u>Richard L. Harding</u>	<u>September 1, 1989</u>
State Archivist and Records Administrator Director, Public Records Division	Date of Approval
<u>[Signature]</u>	<u>9/15/89</u>
Chairman, Archives and Records Commission	Date of Approval

The undersigned Public Records Division staff have examined the record items and recommend the disposition as shown:

<u>Kathy Gilliland</u>	<u>September 1, 1989</u>
Records Analyst/Regional Administrator	Date of Approval
<u>Charles A. Robb</u>	<u>9-1-89</u>
Appraisal Archivist	Date of Approval
<u>Wanda Haves</u>	<u>9/14/89</u>
State/Local Records Branch Manager	Date of Approval

The determination as set forth meets with my approval.

<u>James M. Githens</u>	<u>9-12-89</u>
Auditor of Public Accounts	Date of Approval
<u>for Bob Salvage</u>	

STATE ARCHIVES AND RECORDS COMMISSION
Public Records Division
Kentucky Department for Libraries and Archives

Schedule Date: September 14, 1989

**STATE AGENCY RECORDS
RETENTION SCHEDULE**

Unified Prosecutorial System

Commonwealth's Attorney Model

Series	Records Title and Description	Function and Use	Contents	Retention		
				Disposition Instruction		
03437	Commonwealth's Attorney Case File (C) KRS 61.878 (1)(h) (V)	This series documents the legal activity and criminal prosecution that is carried out by the Office. A file may be created as a result of an arrest or complaint, an individual asks that a charge be filed, a charge waived or held from District Court and, in some cases, when an indictment has been handed down by the grand jury. Information is received automatically by the Office from the District Court Clerk or an outside law enforcement agency, such as the State Police, or from the Office of the Attorney General. The prosecutor determines possible charges and schedules a grand jury hearing. The file includes investigative material, evidence, police reports, etc. Once the case is closed, the defendant has ten days from entry of the judgment to file an appeal. An Ineffective Assistance of Counsel motion (11.42), which is a motion filed by a defendant under sentence or probation to vacate or set aside a sentence due to the competence or incompetence of counsel, has no filing deadline.	Series contains: Tracking forms; witness lists; subpoenas; correspondence; police reports; police witness forms; police officer testimony; prior criminal record; Federal Bureau of Investigation rap sheet; uniform citation; indictment; motions and orders; attorney's notes; photographs; witness statements; evaluation reports; final judgment; mediation intake sheet; criminal complaint; warrant of arrest; offender index	Agency: I	Records Center: *22	Archives Center:
04331	Commonwealth's Attorney Permanent Case File (C) CR 5.24; KRS 61.878 (1)(h)(i)(j) (V)	This series documents the legal activities and criminal prosecution of cases considered to be special, historically significant and/or high profile in the Commonwealth's Attorney Office. The cases have been separated from series 03437 to be retained permanently because of their legal and historical value. Similar to the Special Prosecutions Permanent Case File (04313) in the Attorney General's Office, this series involves cases of corruption of elected public officials (not necessarily state or local employees); cases attracting such publicity that precedents are set, laws are changed, written, or rewritten; and capital punishment cases, regardless of whether an execution takes place or not. Cases handled by the Commonwealth's Attorneys are assigned through the prosecutor's circuit court jurisdiction. The Special Prosecutions Division in the Attorney General's Office intervenes only when a Commonwealth's Attorney disqualifies himself and another must be appointed.	Series contains: Investigative information; legal pleadings and motions; correspondence; Grand Jury transcript; evidence; photographs; disqualification/appointment letter, if applicable (from Special Prosecutions Division, Attorney General's Office)	Agency: I	Records Center:	Archives Center: P
03438	Commonwealth's Attorney Appeal Case File (C) KRS 61.878 (1) (h)	This series provides information pertaining to cases appealed from District to Circuit Court, usually for misdemeanor district cases, i.e., where fines may be less than \$1000 and/or less than a twelve-month jail sentence. An appeal is initiated through the Circuit Court by the defendant. The cases are not likely to be brought before a higher court.	Series contains: Notice of appeal, statement of appeal, counter statement; and motions and orders	Agency: I	Records Center: *5	Archives Center:
					Destroy eight years after case closure, or *transfer to the State	

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Unified Prosecutorial System

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Records Title		Function and Use	Contents	Retention		
Series	and Description			Disposition Instruction		
03439	Diversion Case File (C) KRS 61.878 (1)(a)(h) (V)	This series documents those defendants who have been accepted into the Diversion Program. The program allows the defendant to serve his sentence out of jail, rather than being incarcerated. The Commonwealth's Attorney has the option of recommending that the defendant be accepted into the program. Diversion candidates are usually first time offenders, or is a case where restitution can be made. The judge makes the final decision as to whether an individual will participate in the program, which generally runs for a 24-month period. If the defendant does not fulfill program requirements, the attorney can remove him from the program and try the case in court. Program requirements include restitution, volunteer work, office visits and counseling.	Series contains: Restitution payment plan/information letters; requirements for participation; grounds for termination; conditions for volunteer agency participation; release of information; application form; miranda rights; juvenile record waiver; initial intake form; witness/police opinion sheet; defendant's statement; diversion information sheet; monthly visit logs; correspondence; motions; psychosocial history; volunteer time sheets/referral form; motion to defer prosecution; case progress worksheet; criminal history, if applicable	Agency: I	Records Center: *4	Archives Center:
				Destroy five years after case closure, or *transfer to the State Records Center one year after completion of program		
03440	Economic Crime Investigative File (C) KRS 61.878 (1)(h) (V)	This series documents the investigation by the Commonwealth's Attorney of economic crimes. Economic crimes are criminal in nature and involve embezzlement, investment fraud, home improvement fraud, and insurance fraud, among others. The investigations undertaken by the Office do not involve ongoing investigations by the police department. Individuals often approach the Office with a complaint, rather than going directly to the police. In such instances, the investigation is initiated by the Economic Crime Unit, and providing there is sufficient evidence to warrant it, prosecution of the case may result. In many cases, there is insufficient evidence to warrant prosecution; however, since there is no statute of limitation for felony offenses, cases can be reopened and prosecuted when additional evidence is presented. If prosecution occurs, the case will be retained under series 03437, Commonwealth's Attorney Case File.	Series contains: Investigative reports, witness interviews, evidence documents, suspect statement, and related correspondence	Agency: I	Records Center: *4	Archives Center:
				Destroy five years after close of investigation, or *transfer to the State Records Center one year after close of investigation. NOTE: If prosecution results, the case will be retained under series 03437, Commonwealth's Attorney Case File		
03441	Commonwealth's Attorney Defendant Indictment Index	This series documents felony indictments and is used to perform record checks and to track persistent felony offenders, and to check the status of cases. It provides a source of summarized information after a case has been closed, is stored off-site, or has been destroyed. It can also be used for statistical research.	Series contains: Defendant's name; alias names; defendant's address; sex; race; date of birth; photograph identification number; list of indictment numbers and charges; prosecutor assigned to the case; final disposition of case	Agency: P	Records Center:	Archives Center:
				Retain in agency		

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Series	and Description			Disposition Instruction		
03442	Grand Jury Proceedings - (Cassette tapes) (C) RCr 5.24 (V)	This series documents the testimony of witnesses who appear before the grand jury. Grand jury hearings are to be recorded, as required in RCr 5.16. Failure to have a record made is grounds for dismissal of the indictment, unless the Commonwealth can show good cause for the failure. Mechanical failure of the recording device constitutes good cause. Information on the tapes is available to the defendant and the prosecutor to aid in preparing cases for trial. The information can be referenced until the case is closed and all appeals have been exhausted. The grand jury hears testimony to determine whether an indictment should be returned or the case dismissed. In the case of a dismissal, a new grand jury tape would be produced if additional evidence is presented. Some counties have one tape per case, while others may have multiple testimonies on a single tape.	Mechanical recording which contains name of witness and testimony	Agency: I	Records Center:	Archives Center:
				Destroy or reuse after case closure		
03443	Court Docket Sheets	This series provides a summary of court activity for any single case. It serves as a reference tool for the Office, providing the names of defendants, court file number, prosecuting attorney, type of hearing, disposition of hearing, and the judge's name. All of the information is relevant to the status of cases. Grand jury information also may be included.	Series contains: Sentencing hearing information; grand jury docket information; warrant and summons reports; grand jury indictment and dismissal returns; grand jury breakdown; and persistent felony offender list	Agency: I	Records Center:	Archives Center:
				Destroy after two years or when no longer useful		
03444	Rap Sheet - (Federal Bureau of Investigation)	This series serves as a primary reference tool documenting the past criminal history of defendants. It may be obtained, by request, from a law enforcement agency, including the Federal Bureau of Investigation. Information obtained could become part of a case file (03437), or be retained in a separate file for reference.	Series contains: Name; alias; photograph identification number; arrest date(s); charges (past and pending); dispositions; location of crime(s); fingerprint classification number; and Federal Bureau of Investigation number	Agency: I	Records Center:	Archives Center:
				Destroy when no longer useful, or return to originating agency		
03445	Notice of Discharge Sheet	This series documents the discharge of an inmate from a correctional facility. It is used to advise local officials (county of indictment, county of visitation/release, police chiefs, sheriffs, county attorneys, commonwealth's attorneys, circuit clerks, probation/parole officers) of the release of the inmate. It describes the charge, sentence and conditions of release. The series may be filed with the respective case file (03437) or as a separate file, for reference.	Series contains: Name of defendant; date of discharge; identification number; date of birth; inmate number; county; crime; sentence; maximum expiration date; address discharged to	Agency: I	Records Center:	Archives Center:
				Destroy when no longer useful		
03446	Notice of Furlough Sheet	This series serves as notice to local officials in the county of indictment and visitation that an inmate is being released for a 2-3 day period of time. It may be filed in the respective case file, or in a separate file for reference.	Series contains: Defendant's name; inmate number; institution name; furlough beginning and ending dates; furlough address	Agency: I	Records Center:	Archives Center:
				Destroy when no longer useful		

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Series	and Description			Disposition Instruction		
03447	List of Approved Directs (C) KRS 61.878 (1)(a) (V)	This series documents those cases that are directly submitted to the grand jury, upon approval by the assistant commonwealth's attorney, and presented for indictment. A direct case is one that meets the statutory elements of a crime and due to the evidence presented, that a grand jury hearing is in order. Such a case could be one originally filed in District or Circuit Court where the defendant failed to appear, and a bench warrant is filed allowing the case to go directly to the grand jury for hearing. Another example is vehicular homicide, where the driver has fled jurisdiction. The police agency would file its report and submit for approval for a grand jury hearing.	Series contains: Date of list; name of defendant; address; date of birth; sex; race; social security number; identification number; name of co-defendants, if applicable; date for presentation; name of witnesses; name of police office; name of victim(s); date of offense; charge	Agency: 2	Records Center:	Archives Center:
				Destroy		